



**Homeland
Security**

FEB - 2 2015

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Representative Thompson:

Thank you for your December 10, 2014 letter to Secretary Johnson regarding the decision of the Department of Homeland Security's (DHS) Suspension and Debarment Official (SDO) not to debar Rapiscan Systems, Inc. (Rapiscan). The Secretary is committed to applying sound stewardship principles in the execution of the missions and resources entrusted to the Department. In the context of your request, this means fully leveraging the options that best protect national security interests.

In both instances addressed in your letter, the DHS SDO determined that an Administrative Compliance Agreement, not a debarment, provided the best option to protect the Department's interests. The SDO's decision relied upon several criteria including the Department's cost of replacing the Rapiscan equipment, contractual obligations with the vendor, and the ability to hold the vendor accountable among other factors included in the federal suspension and debarment decision process.

As the suspension and debarment process is used to promote economy and efficiency in federal procurement, a primary reason for the SDO decision was to save costs for the Department. Aside from the procurement, service, and maintenance costs already expended, DHS nevertheless would still be liable for future service and maintenance equipment costs to Rapiscan even under a debarment.

Moreover, a debarment only halts future DHS contracts with the vendor, and does not cease the vendor's performance of existing contracts. Since Rapiscan equipment is proprietary and currently in use by the Transportation Security Administration and other DHS Components, the Department would still be required to obtain Rapiscan service and maintenance and could not seek another source for this performance until the equipment's life cycle is completed.

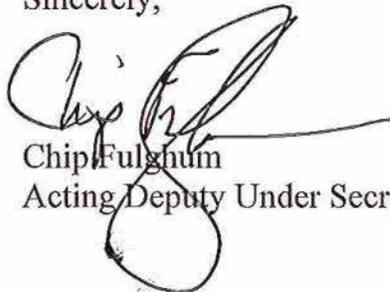
Additionally, in respect to accountability and oversight, the DHS SDO recognized that a debarment fails to offer DHS the opportunity to require corrective actions and government oversight of Rapiscan's contractual performance. Conversely, the Administrative Compliance Agreement enables DHS to continually monitor Rapiscan's performance and provides the Department much needed visibility into the vendor's reform efforts, compliance, ethics, and training.

In summary, the DHS SDO's decision not to debar Rapiscan fully considered the preceding factors among others intended to protect the taxpayer's investment. By requiring compliance, and affording DHS unprecedented insight into the actions taken by this vendor to meet those requirements, an Administrative Compliance Agreement is the better option for DHS. The requested term of debarment was one year and the enhanced Administrative Compliance Agreement will remain in effect until December 21, 2017.

With regard to your request for a list of all entities the SDO has suspended or debarred in his current capacity, that information is located on the System for Award Management. The System for Award Management is a public facing website administered by the General Services Administration and can be accessed at www.sam.gov. The remainder of your questions cover matters that are best addressed in a briefing, and, as requested, the DHS Suspension and Debarment Official met with your staff on November 3, 2014. That briefing included a discussion of the key factors related to Rapiscan's performance, including the underlying rationale for the Department's decision against debarment. We would be pleased to make our staff available to yours in the future, or I would be pleased to speak with you directly.

I appreciate your interest in this matter. Should you require any additional assistance, please do not hesitate to contact me at (b)(6)

Sincerely,

A handwritten signature in black ink, appearing to read "Chip Fulghum", with a large, stylized flourish extending to the right.

Chip Fulghum
Acting Deputy Under Secretary for Management



One Hundred Thirteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

December 10, 2014

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Johnson:

I write regarding the Department of Homeland Security's (DHS) Suspension and Debarment Official's (SDO) recent decision not to debar Rapiscan Systems, Inc. (Rapiscan). As you may be aware, the Transportation Security Administration (TSA) has recommended to the SDO that Rapiscan be debarred twice. In both instances, the SDO deemed it appropriate to enter into an administrative compliance agreement with Rapiscan rather than implement TSA's recommendation of debarment.

The first recommendation for debarment occurred in 2012 after it was discovered that Rapiscan failed to disclose a software defect and instead replaced defective detectors in Advanced Imaging Technology used for screening passengers without the required approval from TSA. After reviewing TSA's Action Referral Memorandum (ARM), the SDO deemed it appropriate for DHS to enter into an administrative compliance agreement with Rapiscan for a term of 30 months.

The second recommendation for debarment occurred in 2013 after TSA discovered Rapiscan had deployed 264 new x-ray generators for use in Advanced Technology 2 (AT-2) x-ray baggage screening machines currently in the field without TSA approval or knowledge. According to TSA, Rapiscan purposefully did not disclose the deployment of the new generator and did not modify the part number of the new generator. TSA ultimately discovered that Rapiscan had already ended their in-house production of the generator in California in favor of a new, Chinese-manufactured generator and that the new generators had been fielded for nearly a year without the required approval. This second recommendation for debarment coincided with TSA terminating for default a contract awarded to Rapiscan for an additional 550 AT-2 units valued at 67 million dollars. After reviewing TSA's ARM, the SDO deemed it appropriate to modify the existing administrative compliance agreement by extending it for 24 months.

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Given the persistent and known threats to our aviation sector, I have grave concerns about the ability of security-related technology companies to insert uncertified Chinese manufactured parts into deployed baggage screening machines without facing either a suspension or debarment. In an effort to gain a better understanding of the SDO's justification for not suspending or debaring Rapiscan in accordance with TSA's recommendation and pursuant to Rule X cl. 3(g) and Rule XI of the United States House of Representatives, please provide the following information no later than December 29, 2014:

1. A copy of the ARMs TSA provided the SDO regarding Rapiscan.
2. A list of all entities the SDO has suspended or debarred in his current capacity along with the corresponding ARMs.
3. A list of the entities the SDO has decided not to suspend or debar despite a component's recommendation that the entity be suspended or debarred.
4. A list of entities that have been recommended for debarment during the term of an administrative compliance agreement.
5. A list of entities that have been recommended for debarment during the term of an administrative compliance agreement but were not debarred.

Thank you for your attention to this important matter. If you have any questions or require additional information, please contact (b)(6) Chief Counsel for Oversight at (b)(6) (b)(6)

Sincerely,



BENNIE G. THOMPSON
Ranking Member



One Hundred Fourteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

February 11, 2015

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
301 7th Street SW – Mail Stop 0020
Washington, DC 20528

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Dear Secretary Johnson:

I write regarding the Department of Homeland Security's (DHS) response to my letter of December 10, 2014. In my letter to you, I inquired about DHS' Suspension and Debarment Official's (SDO) decision not to heed the Transportation Security Administration's recommendation that DHS debar Rapiscan Systems, Inc. (Rapiscan). I also requested that the following documents be provided to the Committee:

1. A copy of the Action Referral Memorandums (ARM) TSA provided the SDO regarding Rapiscan.
2. A list of all entities the SDO has suspended or debarred in his current capacity along with the corresponding ARMs.
3. A list of the entities the SDO has decided not to suspend or debar despite a component's recommendation that the entity be suspended or debarred.
4. A list of entities that have been recommended for debarment during the term of an administrative compliance agreement.
5. A list of entities that have been recommended for debarment during the term of an administrative compliance agreement but were not debarred.

Two months after my inquiry, I received a response from Mr. Chip Fulghum, the Acting Deputy Under Secretary for Management. While the response contained the SDO's rationalization for not debaring Rapiscan, it is devoid of any of the requested information listed above. While I am pleased to accept the invitation for our staffs to meet and discuss this matter in further detail, I am compelled to renew my request for the documents and information originally requested in my letter of December 10, 2014. Pursuant to Rule X(3)(g) and Rule XI of the Rules of the House of

Representatives, I request that the information and documents requested be provided no later than February 25, 2015.

Thank you for your attention to this important matter. If you have any questions or require additional information, please contact (b)(6) Chief Counsel for Oversight at (b)(6) (b)(6)

Sincerely,



BENNIE G. THOMPSON
Ranking Member



**Homeland
Security**

FEB 24 2015

The Honorable Bennie G. Thompson
Ranking Member
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Representative Thompson:

Thank you for your February 11, 2015 letter. I am writing on behalf of the Secretary to address your inquiries regarding Rapiscan Systems, Inc. and our suspension and debarment process.

A list of all entities that the Department of Homeland Security Suspension and Debarment Official has suspended or debarred is available on the System for Award Management website at www.sam.gov. The remainder of your questions are best addressed in a briefing, and we look forward to a follow up briefing scheduled for Friday, February 27, 2015. Our Suspension and Debarment Official also met with your staff on November 3, 2014. That briefing included a discussion of the key factors related to Rapiscan's performance, including the underlying rationale for the Department's decision against debarment.

I appreciate your interest in this matter. Should you require any additional assistance, please do not hesitate to contact me at (b)(6)

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Chip Fulghum
Acting Deputy Under Secretary for Management



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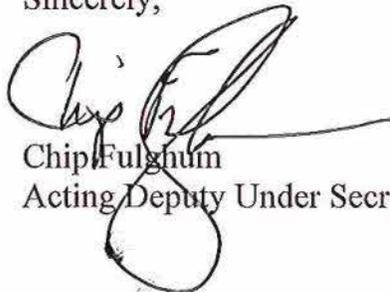
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